

REMARKS/ARGUMENTS

Applicant has reviewed and considered the Office Action mailed on October 19, 2004, and the reference cited therewith.

Claims 42-49 are added; as a result, claims 1-8, 11, 12, 20-26, 28, 29 and 42-49 are now pending in this application.

Applicant respectfully submits that claims 42-49 do not introduce any new subject matter and are intended to cover additional claimable subject matter fully supported by the originally filed specification. For example, support for new claims 42-49 can be found throughout the specification, including page 8, lines 13-21 of the specification.

§102 and §103 Rejection of the Claims

Claims 1-8, 11, 20-26 and 29 were rejected under 35 USC §102(e) as being anticipated by Doscher, et al. (U.S. Patent No. 6,786,904).

Claims 12 and 28 were rejected under 35 USC §103(a) as being unpatentable over Doscher, et al. (U.S. Patent No. 6,786,904).

Applicant respectfully traverses the rejections as follows.

Applicant respectfully submits that Doscher is not prior art to the instant application. In support of this, Applicant includes with this response a declaration under 37 CFR 1.131 that the Applicant conceived of and worked diligently to reduce to practice the inventive subject matter as claimed prior to the effective date of Doscher. The declaration includes factual evidence describing the development of the vascular treatment device and vascular treatment system of the present invention (Exhibit A). In addition, the declaration includes additional factual evidence of due diligence with respect to the present invention (Exhibit B).

As such, Applicant respectfully submits that Doscher is not available as a 102 and/or 103 reference.

Based on the foregoing, Applicant respectfully requests reconsideration and withdrawal of the 102 and 103 rejections for claims 1-8, 11, 12, 20-26, 28, and 29.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 659-9340 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner of Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 22nd day of February, 2005.

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Respectfully Submitted,
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